

REVIEW

OF SEVERAL LATE PUBLICATIONS ON

MARRIAGE

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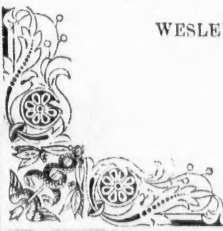
DECEASED WIFE'S SISTER.

FROM THE QUARTERLY REVIEW.

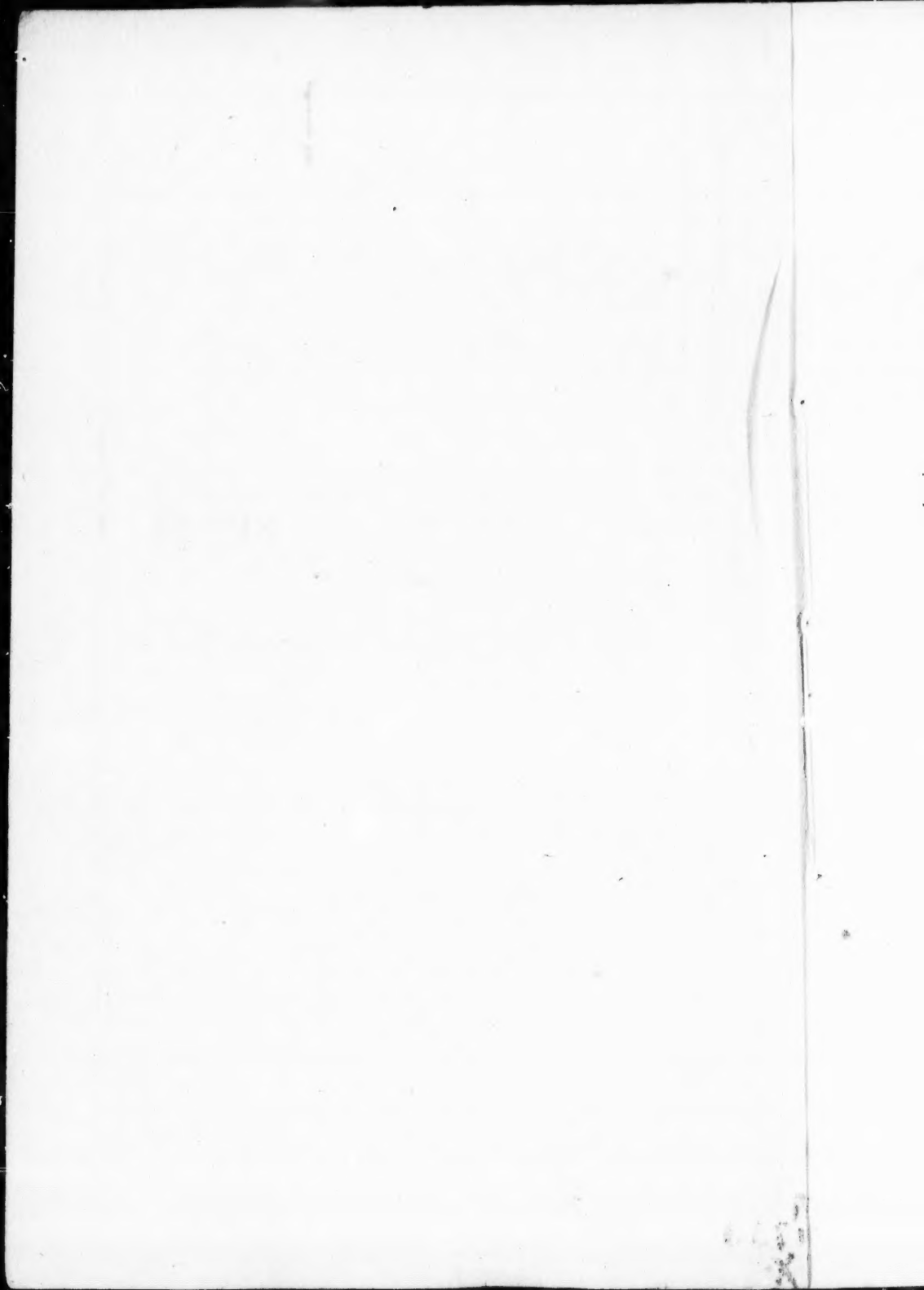
HALIFAX, N. S.:

WESLEYAN CONFERENCE STEAM PRESS.

1859.



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DECEASED WIFE'S SISTER ;

CONDEMNING THIS

PROPOSED INNOVATION ON OUR RELIGIOUS
INSTITUTIONS.

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MARRIAGE WITH A DECEASED WIFE'S SISTER.

There are two national characteristics which distinguish the people of the United Kingdom from the countries on the continent of Europe:—the sanctity of the Lord's Day and the sanctity of the marriage relation.

A greater contrast cannot be found between England and France, or indeed between any two civilized nations, than that which would meet the eye of a non-European traveller, who, having passed one Sunday at Calais, should pass the following Sunday at Dover:—every shop opened among the French, every shop closed among the English; one church in Calais, with scarcely one sermon except in Lent; four churches in Dover, with twelve sermons between them; Calais, with its theatre more full on Sunday than on any other day; Dover, a town more populous than Calais, without any theatre, except when visited by some provincial company, and without one public amusement of any kind on the Sunday.

So, again, in respect to the marriage relation. Though the facilities of divorce vary in different countries, and will always vary according to the nature of the law of marriage in each; and though there are very imperfect statistics in respect to the number of divorces as compared with the number of marriages in any one country; and though, even if the tables were more full and accurate than they are, the results would give no fair conclusion as to the sanctity in which the marriage relation is held, unless there be in the first instance something like uniformity in the sanctions under which it is contracted—it is clear

to every English sojourner on the continent that the number of divorces or equivalent separations among persons of the higher classes in society is immensely greater than in England.

In the course of the last few years a considerable agitation has been carried on in and out of Parliament, with a view to the abrogation of the Table of prohibited degrees, or at least to the excision of two out of the number—namely, the marriage of a man with his deceased wife's sister, and the marriage of a man with his deceased wife's niece. The parliamentary agitation commenced, indeed, some years earlier, when Lord Francis Egerton moved in 1842 for leave to bring in a bill to alter the prohibited degrees.

No controversialist ever gained anything by mis-stating or under-stating the case of his antagonist. We will endeavor, therefore, as fairly as possible, to represent the views of those who advocate the alteration of the table of prohibited degrees.

They state in substance—"That in the first instance at the Creation, marriages, which no human being would now contemplate without horror, were lawful, because necessary; that, when the necessity ceased, God implanted in his creatures a sense of shame, and repugnance, and disgust at the very thought; and that they have never since been imagined to be possible, by either Jews or Christians. That, when God separated one nation from the rest of the world, and gave them peculiar laws for their government, He not only confirmed this natural horror against such marriages by express and formal prohibition, but added other limitations which in His infinite wisdom He then judged to be necessary for the existing state of society into which He had brought His people; that these limitations, being *pro tanto* an abridgement of the natural right and capacity of the two sexes to marry at their discretion, must not be extended beyond their very letter, lest we should be wiser than God, and should forbid that which he has not thought fit to forbid. That a prohibition, like a penal law, ought to be construed strictly, and ought not to be made to include more than it specifies; it being equally easy for God to have added this or that prohibition to the list, if the restriction had been

agreeable to His will. That, under these considerations, whatever God has not prohibited, he has allowed; and while we do not deny the right of the civil power to limit marriages in any way which may be required by the civil convenience, as to the age of the parties, for example, we deny its right to invoke the name and will of God as prohibiting that which His Word has left open."

Passing over the consideration of the primæval state of mankind, and the universal liberty of marriage which then necessarily existed, and which was restricted exactly as the necessity for its existence ceased—passing this over, inasmuch as no one has ever contended for its revival, we may take our stand on the authority for or against the proposed legislation, as such authority is contained in the Bible.

Though the prohibited degrees are many, yet, for all the purposes of argument—we believe we might say, for all the practical purposes which the advocates for the proposed bill have in view—the change of law in respect to one degree only, and in that degree to one sex only, is the real object.

We contend that it is prohibited by Scripture.

It is remarkable, but it is incontrovertible as a fact, that there is not in the whole volume of Scripture any one prohibition or restriction of any kind in respect to the marriage relation, except in the Book of Leviticus.* Even polygamy is not in express terms forbidden by the Gospel; yet, on that point, inference is as strong as any direct prohibition, and a formal veto is not required to exclude polygamy from Christian society, so long as the words of our Lord are heard—"For this cause shall a man leave father and mother and shall cleave to his

* Repeated in part in Deuteronomy, xx. and xxvii. There is a strong passage in the late Rev. Thomas Scott's *Miscellaneous Letters*, an authority, which to four, at least, of the Five Divines will appear worthy of some attention. "If we reject the laws of Leviticus, we have no law of God on the subject; no, not against marrying sisters or brothers, or any relation. Now, can we think that God intended to set aside these laws in Leviticus, and to give no other in their stead? Can we suppose that He meant to leave the Christian Church *without law* in this most important matter? But, if not *without law*, the laws in Leviticus, in all general cases, are in full force."—*Scott's Letters and Papers*, 8 vo., 1844: "*Letter on Marrying a Wife's Sister*," p. 271.

wife, and they twain shall be one flesh;" establishing by an inference as conclusive as express words, that the union of one man and one woman constitutes exclusively the marriage which Christ sanctions. So much for polygamy. But as to the marriage of any one man with any one woman, the mind and will of God are expressed in the Pentateuch, or not at all. The silence of other books of the Holy Canon compels us either to resort to this portion of the Bible, or to conclude that, in that relation which is of all others the most essential to the existence of our race on earth—that relation which God instituted in our state of innocence, which He sanctified by His own presence at Cana, and which He made the type of His own union with His Church—He has left us without restraint to seek, almost as natural brute beasts, those who may be our pairs. Who will advocate such a conclusion? If no one will advocate it, the Book of Leviticus contains the moral and universal code of marriage laws, applicable to Christians as well as to Jews, binding as entirely those who live in the nineteenth century after Christ, as those who received it fifteen hundred years before his advent.

Many of the chapters of that book begin with a solemnity awfully suited to a communication from God to man; and no one in the whole Bible opens more solemnly than the eighteenth chapter, which contains the laws relating to marriage. There is a preface of five verses, in which the incommunicable name of Jehovah is four times introduced, calling upon all the people to avoid the doings of the nations of Canaan, and to do the judgments and to keep the statutes and ordinances of God. "Ye shall therefore keep my statutes and judgments; which if a man do he shall live. I AM THE LORD." And then follows the great law promulgated with such an awful appeal—None of you shall approach to any that is near of kin to him—in marriage. I AM THE LORD.

This, then, is the text of the law: the verses, which follow, contain certain illustrations and specifications, sufficient to show the meaning of the legislator—not Moses, but Jehovah, the Lord of Moses; and to furnish rules of conduct to those who receive the law of God in all ages, and who are taught to apply

His will by a reasonable, holy, and necessary analogy, from things expressed to things implied.

It has been contended, that the *animus* of the legislation is to prevent confusion of blood; and that there is no prohibition of marriage where there is no blood-relationship. It is enough to say, in reply to this allegation, that the very second class of marriages, which is forbidden, is a class in which such blood-relationship does not exist; namely, *the marriage of a man with the wife of his father*. This single fact, even if it stood alone, is enough to prove, that the Almighty Lawgiver, who, under the Gospel, expressly declared that man and wife should be one flesh, here by anticipation and application announced the same fact; and taught us that, when he prohibited a marriage in reference to the *consanguinity* of the parties, He prohibited it equally in reference to the corresponding *affinity* of the parties, and disallowed alike the marriage of a man with his mother-in-law and the marriage of a man with his mother. These specifications are painful, but they are necessary; since the subject has been forced upon us by those who seem to be as regardless of the law of God as of the law of man; and some of whom, we fear, will violate the one and repeal the other, defying public decency, destroying the social happiness of others, and anxious only to obtain the sanction of a human legislature for the indulgence of their own passions.

Their great argument, as we have already abstracted it, is that the marriage of a man with his deceased wife's sister is not prohibited, and therefore is allowed by God's law; in other words, that what is not forbidden is permitted. The argument proves too much. No man is forbidden by God's law, *totidem verbis*, to marry his own daughter; an atrocity never legalized, however practised, in Egypt or in Persia. But can a Christian, does a Jew, maintain—did any one, entrusted with common sense and common feeling, ever tolerate the existence of such a license? Does not every one see, that where, as in the tenth verse, the marriage of a man with his granddaughter is forbidden, his marriage with his daughter is, *a fortiori*, still more forbidden, though nowhere in very words denounced? Away with a sophistry which would tolerate such a conclusion. The

fact is, that the general principle having been established by the public promulgation of the universal law in the sixth verse, its application to particular cases is sometimes specified, and sometimes left to a necessary analogy; and thus, while the marriage of a man with his own daughter is necessarily included in the prohibition of his marriage with his granddaughter, the marriage of a woman with her uncle is included in the prohibition of the marriage of a man with his aunt—a relation forbidden in express words to the one sex being, by all fair rules of construction, forbidden to the other also.

But it is said, however reasonable and conclusive this argument may be, as applied to other degrees which may be included by analogy, it does not apply to the particular relationship, in respect to which the proposed legislation is directed. "It is true, indeed, that the particular chapter in Leviticus forbids the marriage of a man to his brother's widow, but you must not go on to extend the prohibition by analogy, and to forbid the marriage of one man to two sisters; since, even in the case actually forbidden, we find in the same Pentateuch not a mere dispensation in the case of individuals, but a specific injunction of such marriage as a general rule." The answer is obvious. That the prohibition was a part of the universal law, by which the whole Church of God is to be governed; the injunction, where it was an injunction, was a part of the municipal law of the Jews, arising out of their exclusive position, and which God accordingly issued in order that the name of no family among His people might be "put out of Israel." This is fully proved by the context, which, while it leaves a discretion to the brother to marry, or not to marry, his brother's widow—(a discretion which alone is sufficient to remove it from the class of injunctions)—transfers to the then next of kin the right and the duty of marrying such widow, as it was exercised in the case of Ruth and Boaz.

It is said, however, that the particular case was brought before our Lord Himself, and that He manifested no disapprobation of it; * which, if it had been contrary to the Book of

* S. Matt. xxii. 24. It must not be forgotten, however, even as to this point of the non-disapprobation of our Lord, that the very first words of His reply were, "Ye do err, not knowing the Scriptures"—

Leviticus, he would have done. The answer is, that the case being expressly in conformity to an injunction or quasi-injunction, which, for purposes exclusively national, had been promulgated in another Book of the Pentateuch, our Lord, replying to Jews, did not think fit to pronounce any sentence upon the conduct of those who had acted in such conformity; but He took advantage of the opportunity, and taught them and all His people, in every age, that in the other world—the world to which all the parties in the question had already gone, and to which we are hastening—"They neither marry nor are given in marriage."

If, after all, it be said, that an injunction to a man to marry his brother's widow renders it at least allowable for a woman to marry her late sister's husband, it may be replied, firstly, that the argument itself admits that a permission, and if a permission then a prohibition, may be transferred from one sex to the other—the very ground on which we contend that a prohibition to a woman to marry her husband's brother included a prohibition to a man to marry his wife's sister; and secondly, that, if this injunction be binding on us, and be not, as we contend, a local and national law applicable to the case of the Jews at that time, and to them only, then it must be taken with all its adjuncts also, and it is good for him, and for him alone, who marries his brother's widow, *there being no child of such first marriage.*

We proceed, then, to consider not what in the judgment of any individual may be the Scriptural view of the particular case, but what is the interpretation of Scripture, which, for at least fifteen centuries, has been recognized and affirmed by the Church.

It is said, that even if, for the sake of argument, it be conceded that the Church has denounced the marriage in question as un-Scriptural, we are brought back to "Dark Ages;" and that in the purer days of the Apostles the licence was uncontrolled. Surely, if we prove that a given view of Scriptural morals can be traced for fifteen centuries, it is for those who deny that it can be traced further back, to prove that the licence existed previously unchecked by the authority of the Church.

We contend that the practice, as soon as it appeared, was prohibited; just as we contend that forging seamen's wills was prohibited in the reign of George II. and not in the reign of Edward III., merely because the offence grew up in the 18th century and was unknown in the 14th.

From the time when the offence was known, the prohibition, then, may be found in every branch of the Church.

No man, indeed, can deny that the Church Catholic is on this point united. The Church of England, the Church of Scotland, the Church of Rome, and the Greek Church, differing as they differ upon almost every other point—not, indeed, of dogmatic theology, since in God's gracious providence the great truths of the Holy Trinity, the Incarnation, and the Atonement, have been preserved and enshrined alike in all these Churches—but differing as they differ upon questions of Scripture as affecting social life, celibacy, &c., all are nevertheless united in respect to the prohibition which the English Parliament is now urged to sweep away.

The doctrine of the Greek Church has been elaborately stated in a paper printed in the Report of the Commissioners (pp. 53-59). It is enough to quote the words of the Canon (p. 34): "A man cannot marry two sisters; for his deceased wife's sister is as his own sister."

The doctrine of the Church of Rome, irrespective of Scripture, clearly prohibits the marriage in question. The acknowledged fact that such marriage requires a dispensation, proves it; since, if it were not previously prohibited, no dispensation could be required. It is true that Bishop Wiseman regards the whole as "matter of ecclesiastical legislation;" but it is a question of the judgment of the Church of Rome upon the lawfulness of such marriages, and not as to the ground of such judgment, that we are now referring to that Church. "It was the deliberate mind of the Western Church, her Councils, her Popes, her schoolmen, her Canonists, that these marriages were a part of the unchangeable Divine law; and Popes, schoolmen, and Canonists deliberately taught that the Popes could not dispense within those degrees. Pope Zachary (A. D. 745) held it a thing incredible that a Pope should dispense contrary to

the Canons of the Fathers. Pope Innocent III. (A. D. 1198) and Pope Eugenius (A. D. 1431-1477) held and answered that the Popes *could not* dispense in those degrees.* And the general truth is stated in these words:—"Within the Levitical degrees there is no instance whatever of any dispensation until Alexander VI., at the close of the 16th century." It is hardly necessary to add, that the concentrated evil of man's nature was embodied in the person of Alexander VI.; and that a dispensation first granted by him would even from that very circumstance become an object of suspicion. But we need not pursue this subject. There is no record, and there is no allegation, that any such dispensation was granted for the fifteen centuries before him; and as the fact of a dispensation implies a prohibition, the voice of the Church of Rome on the general question is united with the voice of the Greek Church "against the marriage of any man with the sister of his deceased wife."

The voice of the Church of Scotland is not less distinct. The Confession of Faith, in chapter xxiv., section iv., says expressly: "Marriage ought not to be within the degrees of consanguinity or affinity forbidden in the Word; nor can such incestuous marriages ever be made lawful by any law of man, or consent of parties, so as those persons may live together as man and wife. The man may not marry any of his wife's kindred nearer in blood than he may of his own; nor the woman of her husband's kindred nearer in blood than of her own." And be it always remembered, that this passage is not an insulated text from a popular work of hortatory theology; it is a portion of the doctrine of the Established Church of Scotland, which has been recognized and ratified by the Parliament of that ancient kingdom; † which became the law of the land of Scotland during its independence, and was confirmed in perpetuity by the Act of Union, which, while it surrendered that independence, secured the legal maintenance of the doctrines of its Church. The law of that Church and the law of that land are maintained by its courts. As our present object is rather to

* Preface to Pusey and Badeley, pp. lix. lx. † 1 Will. and Mary, act. 5.

quote the authority of the Church of Scotland in respect to the interpretation of Scripture, and to show how entirely it accords in this instance with the authority of its opposite extreme, the Church of Rome, we do not follow the question into courts of Scotch law, further than to state that the Lord Advocate, Mr. Rutherford, being specifically asked the question as to the legality of the marriage of a man with his deceased wife's sister, refers the Commissioners to the great Institutionalist, Mr. Erskine, who, in his *Title of Marriage*, (book i. title 6) says expressly in section 7, "that marriage is null when it is contracted within the degrees of propinquity or affinity forbidden by law;" and afterwards in section 9, "that as to the degrees in which marriage is prohibited, the law of Scotland has adopted the Jewish law, by act of 1567, c. 15." He then adds, "that the degrees prohibited by the law of Moses of consanguinity, are in every case virtually prohibited in affinity; and, by the aforesaid act of 1567, the prohibition is equally broad in the degrees of affinity as in those of consanguinity. Thus, one cannot marry his wife's sister more than he can marry his own." * The feelings of the people of Scotland sustain their Church and sustain their law. The Lord Advocate confirms this when he adds, "not only that no clergymen of the Church of Scotland could venture without incurring the pain, I think, of deprivation of office, to celebrate such a marriage with a knowledge of the relationship of the parties, but that such a marriage generally is held by the people of Scotland in very great abhorrence." † The Lord Advocate is accurate in this view of the penalty which a clergyman of the Church of Scotland might incur by celebrating a marriage within the prohibited degrees. There is an early and very remarkable case, in which the Rev. James Forsyth, who was guilty of this offence, but who could state, on the other hand, "that it was the only miscarriage with which, in a ministry of thirty-five years, he could be charged," was nevertheless deposed from his office and living for having thus violated the laws of God and the Church. The Lord Advocate further says, in respect to the

* Report, p. 100, A. 1141.

† P. 101.

parties themselves, that "in the severer and more rigorous, as well as violent times of the middle of the 17th century, there are cases in which that connection appears to have been punished, and punished even capitally."* In this state of the law and of the religious opinion of Scotland, we are not surprised to find that the Lord Advocate, in a later portion of his evidence, states—"These marriages take place in Scotland, I should say, hardly at all. Certainly, I do not think that persons in the better classes of life would be received in society, having made such a marriage; and I should think that in the lower orders the impression against it was very strong indeed."† The great constitutional organ of the Established Church of Scotland, the General Assembly, a body which contains not only the leading ministers of that Church, but—be it always remembered—its leading laymen also, has recently adopted unanimously a petition to both Houses against Mr. Wortley's bill; and it is most satisfactory to add, that the General Assembly of the Free Church has also, in like manner, unanimously addressed a similar prayer to Parliament. The faculty of Theology, represented by its Dean, the Principal of the College of Edinburgh, has in like manner solemnly remonstrated against the measure.

The voice of the Church of England is heard not less loudly and distinctly than that of the other Churches to which we have listened. She speaks in her Canons, in her Table of Prohibited Degrees, and in every institutional writer without exception, from the Reformation downwards. We challenge contradiction on this point. We do not include the Five Divines whose off-hand letters form one of the subjects of this article; since, in those letters, they do not profess to expound the doctrines of their Church. But those who seek the teaching of the Church of England will find it in the 99th Canon:—

"No person shall marry within the degrees prohibited by the laws of God, and expressed in a Table set forth by authority in the year of our Lord God 1563. And all marriages so made and contracted shall be adjudged incestuous and unlawful; and consequently shall be dissolved as void from the beginning; and the parties so marrying

* P. 101, f.

† P. 103, A. 1148.

shall by course of law be separated. And the aforesaid Table shall be in every Church publicly set up and fixed at the charge of the parish."

"Now, here," says an able controversialist on this subject, "we have a declaration of the Church of England—the very same authority of the Church which gave its sanction to the Articles, the Book of Common Prayer, and the Homilies, and which abolished the Papal Supremacy, and carried on the Reformation—a declaration, that these marriages are prohibited by the laws of God, and incestuous." We may add, that if the authority of Convocation were sufficient to establish the Thirty-nine Articles as embodying the mind of the Church of England on the points to which they relate, the authority of Convocation is equally sufficient to establish the Ninety-ninth Canon as embodying the mind of the Church of England on the point of the law of God in respect to the Prohibited Degrees.

The advocates of the new licence say—"You, who quote the authority of the Church, must, for consistency's sake, obey every other Canon of that Church; you are not at liberty to pick and choose. You, clergymen, sometimes wear white stockings, though the Canons forbid them; and, therefore, you have no right to object to the marriage in question, though the Canons prohibit it." The answer is easy—If the Church enjoined black stockings *on the authority of Scripture*, and could produce any Scripture as requiring it, the cases might be parallel; but the distinction is in this—that the Church not only prohibits the marriage, but specially alleges Scripture as authority for such prohibition. Whatever be the obligation of the Canons on laymen, whatever be the soundness of the Scriptural authority therein quoted, as forbidding the marriage now in question, though we have not the shadow of a doubt as to its sufficiency, the main point is, we think, established, that the Church of England unites with all other great divisions of the Universal Church, in so interpreting their common Scriptures, as to denounce the marriages which are now sought to be permitted.

The expounders of the mind of the Church of England, from their seat of judgment, proclaim the same doctrine. In the celebrated case of *Ray v. Sherwood*, in which Mr. Sherwood

had married the sister of his deceased wife, Sir Herbert Jenner stated :—

"In the first place, this is a contract which is prohibited by the laws both of God and man; for so, sitting in an ecclesiastical court, I should be bound to consider it, even if I were, as I am not, among the number of those who privately entertain any doubt upon the subject. * * * * But whatever may have been the intention of the Legislature, and whatever may be the effect of this Act of Parliament, the marriage had between the two parties, Thomas Moulden Sherwood and Emma Sarah Ray, is an incestuous marriage, and must ever so remain. The law of God cannot be altered by man. The Legislature may exempt the parties from punishment; it may legalize, humanly speaking, every prohibited act, and give effect to any contract, however inconsistent with the Divine law; but it cannot change the character of the act itself, which remains as it was, and must always so remain, whatever be the effect of the Act of Parliament." *

This is the solemn authority of the highest court of ecclesiastical law in England. The unanimous judgment of the Queen's Bench in the more recent case of Chadwick, has decided—what could hardly have been previously ambiguous—that the marriage of any man with the sister of his deceased wife is no marriage; and, consequently, that the marriage of the husband with a third woman, while the unhappy being, the sister of his first wife, was still living, was not bigamy.

What Scripture has denounced, what the Church has forbidden, what the law has prohibited, is equally inconsistent, as might well be expected, with the best interests of social life.

Those who fear not God, neither regard man—in other words, those who disregard the authority of Scripture, the voice of the Church, and the law of the land, can little be expected to stop in their course from any consideration of the social evils and domestic misery which will follow their success. But those law-makers who have not broken the law, and do not desire to alter it in order that they may do that which at present it forbids, ought to consider the effects of the proposed measure upon others, as well as on the law-breakers.

In the actual state of public feeling and of the law, a man

* Stephens's Ecclesiastical and Eleemosynary Statutes, vol. ii, p. 1649.

looks upon the sisters of his wife as upon his own sisters; and the wife brings into her new abode her own sisters as having such an interest in her husband's affection and attentions as his own sisters by blood. In life they are united as one family; and in the approach of death the married sister may look to one of the unmarried as the natural protectress of the orphans. But if the wife be to feel that her sister may become her rival and her successor, she will pause before she hazards the interruption to her own peace which the introduction of such an inmate may occasion. In the existing constitution of the law and of the feelings which it sanctions, the husband has not merely the opportunity, but the duty, of paying to his wife's sister those blameless and tender attentions which he pays to his own sister. He can pay them to no other woman except to his own sister; he sees his wife's sister as he sees his own, with a freedom which is pure to the pure; and which we are confident is indulged in by thousands and tens of thousands with no other emotion than that which is felt by the same men towards their own sisters;—the idea of any other affection never for an instant rising in the minds of either party; the husband gaining another sister, and the wife seeing in her husband's heart thus opened to all her connexions only a new proof of his expanding interest in herself. But change the sister of a wife into a young marriageable stranger, and the attentions which are now offered by the husband and received by the sister, and witnessed by the wife, with purity, with delicacy, and with confidence, become insults alike to both females. The union which is daily seen in families will, where it now exists, be broken, and will never hereafter be formed: the relation of brother-in-law and sister-in-law will cease to exist; the parties now described by those terms will henceforth be strangers to each other; and the reflected tenderness, which now binds them to each other, must be abandoned by both as a snare and a danger; while the wife will be deprived of that support and comfort which she now derives from the presence of the sister of her youth as a companion in her own house. This is well stated in the letter of the "Englishwoman, a Sister and a Widow," pp. 5 6:—

Throughout the whole range of domestic connexions, there is not one more peculiar in itself, or which gives birth to sentiments more pleasing, than that which subsists between the husband and his wife's sister. With the frankness, the cheerfulness of affection that exists naturally between brother and sister, there is a freshness united with a certain degree of tacit respect entertained by the sister for her brother-in-law, which, while it marks the difference of the relationship between them, detracts nothing from the playful confidence or the ingenuous warmth that distinguishes it. In no situation, perhaps, is a female seen to greater advantage. Emulous to please for the sake of a beloved sister, grateful to the husband for the happiness he confers on one so dear to her, fearless of any misconception of her views, she is never so much at her ease, never so agreeable or attractive, never apparently less selfish or more amiable. Whilst the wife, whose desire it has been that her husband should be loved and valued by her sister, who has encouraged this mutual regard, feels her own happiness augmented by the attachment she thus witnesses, and esteems herself flattered and honored by that affectionate conduct of her husband towards her sister, which, if shown to another, would dash the cup of felicity to the ground, and poison its very dregs." * *

"Remove, however, the present restriction, and all is changed. A different line of conduct must be pursued by all parties—restraint must take the place of affectionate familiarity; the tie of relationship is severed; each is to the other what strangers are; the wary and modest female will resume the armour of womanly reserve, womanly prudence, and caution, and substitute mistrust for confidence; while the husband, no longer daring openly and freely to evince his regard for the sister who differs in no other respect from other women of his acquaintance, except as she stands in a more dangerous position towards him, must confine himself within the bounds of polite friendliness." * * "Former restriction, we consider, removed temptation. The imagination, that root and source of all that is to be dreaded, was curbed; and innocence was secured, as in the case of brothers in blood, by the very unconsciousness that guilt could be conceived. Well, indeed, will it be, we apprehend, if many will not have cause to say, though with a different meaning to his who first raised it—'I had not known sin but through the law.'"

On this subject we have seen a remonstrance from a lady now no longer young, against the proposed measure; stating, in substance, that having been the first married of her family, she had received in her house her sisters as they grew up, who, in succession, had married; that this continuance of early affection could not have been indulged if she had felt that she was introducing under her own roof—particularly at the periods of her own confinements—those who were to be placed in nearer intercourse with her husband than any strangers could be, and yet who were not to be protected by the sanctity of that rela-

tionship which, at the time, actually surrounded them. As the law was and is, the harmony was never for an instant hazarded by a suspicion; but, as Mr. Wortley will make the law, the intercourse will become impossible, and a sister, once married, can never receive an unmarried sister into her house in the present fullness and freedom of confidence. The widower, likewise, will suffer equally. At present he receives—the Commissioners cannot be ignorant of the fact—the aid of his deceased wife's sister as her best successor in the charge of her children. That sister enters his home with a confidence and a purity which, if he had had a sister of his own blood, he could not find surpassed in her case. As the law now stands, and as the feelings of society are developed, the deceased wife's sister remains in the widower's house, or enters it in the midst of his sacred sorrows, and soothes them, and adopts his children, and supplies her lost sister's place to them, without one thought as to him which one of his own blood might not blamelessly indulge.

All this must be blotted out from English society. And where is it to stop? If A. B. may marry one sister, C., he may, after her death, marry another sister, D. and, if there be a third, he may look forward to the prospect of marrying E. * We ask, can either D. or E. ever be to him or to C. what she now is?—she is lost to both as a sister. Mr. Keble has well put the case, in substance—the word *sister-in-law* will henceforth disappear from the English language; as the relationship itself will be expunged from English life: “the very name will become an absurdity, if once this change is made—the relation, I mean, of sister-in-law.”

It has been asked in Parliament—and we have already hinted at the question—where, if the proposed law shall break down the present lines, is the inroad to stop? We repeat the question formally: is there any consistency in stopping where

• “There was another case at Norwich where a man married three sisters in succession.”—Evidence, Ans. 1040. “I saw one woman who was the third sister the man had married; and her expression to me was, that, if she died, she believed her husband would have the fourth. That was in Sheffield.”—Ans. 150.

Mr. Wortley stops? He alters the law of the land, and he violates the law of the Church, and he wounds the feelings of thousands of men and of ten thousands of women, and he hazards the happiness of domestic life in some of its dear and now sacred relations; but does he establish a principle? No, he only makes an exception. The principle, and some are bold enough to maintain it, is—"Abolish all restraints on marriage, except where there is a blood-relationship; we mean, such a blood-relationship as nature abhors." But "stop," says a still bolder one, "why should my liberty be restrained by your scruples about nature abhorring anything?" We cannot pursue this subject further; but we may say thus much, that to get rid of all prohibition in respect to *all* degrees of *affinity* is consistent with a principle—odious, repulsive, and fatal as would be the working of that principle; but to get rid of the prohibition in respect to the one prominent degree, for which heaven and earth are now moved, involves great evils, in fact, and does not attain, even in theory, the miserable satisfaction of establishing a mischievous principle.

We have just said, and much of the preceding reasoning, and all of our preceding quotations, have had relation to the one prominent degree now sought to be expunged from the Tables of Prohibited Degrees; we mean, the marriage of a man with the sister of his deceased wife. But we must not conceal from our readers that Mr. Wortley's bill proposes to legalize another union, which, though technically further removed, is, to our apprehension, in some respects even more repulsive than that of a widower with his late wife's sister—it is his marriage with her niece. We feel all the delicacy of this, and indeed of every portion of the subject. It is enough to say, that in the vast majority of all marriages the age of the man exceeds, and sometimes greatly exceeds, that of the wife; and that in the vast majority of the cases which could be conceived under the present head, the widower would be far older than his second bride—probably a child during his first marriage, whom he ought never to have regarded except with parental eyes.

But such cases are brought forward in the evidence before

the Commissioners—what Mr. Thornburn calls familiarly “niece cases.” We do not here confine ourselves to those alliances which Mr. Wortley desires to permit. We do not refer to a Birmingham clergyman marrying his wife’s niece—now a “beneficed clergyman,” by the bye, living “perfectly comfortable” in the witness’s parish; * nor to a Norfolk magistrate who was not ashamed to contract the same unholy alliance; † nor to those at Sheffield who “occasionally” marry the wife’s niece; ‡ but we do refer to cases “where a man had married *his own niece*.” § It is to this class of cases that Mr. Thornburn had so naively adverted—“I dare say I may have, in the course of my notes, two or three other cases, but not more.” Another of the barristers, sent forth to make inquiries, says—“I think there are about six instances of marriages of the party’s own nieces, not deceased wives’ nieces.” (Foster’s Evidence, p. 4.) This is not the worst: “there were one or two, out of the sex, where a man had married the mother and the daughter; but I think six is the outside of those cases.” (Foster’s Ev., Answer 17, p. 4.) “One,” says another inquiring barrister in another district, “married his wife’s mother.” (Aspinall, Answer 47, p. 6.) ||

And it is to the prospect of such cases, and to the increase of alliances which we believe to be repugnant to the law of God, that we look fearfully—when the barriers shall be broken down which now, by the double sanction of “Scripture and our

* Evidence of Rev. S. Garbett, A. 1073, 1074, compared with evidence of J. Brotherton, Esq. (Evidence, p. 9), unless, which we hope is not the case, the witnesses refer to two different unions.

† Evidence, p. 12. Perhaps the same case is stated in p. 14.

‡ Evidence, Answer 142.

§ Evidence, Answer 118, p. 12.

|| This more than realizes the case already put too happily by Dr. Pusey, in answer to Mr. Hatchard, who had contended in his evidence before the Commissioners that, though man and wife are called “one flesh” by the word of God, yet that, as such relation did not exist before marriage, it ceases when the marriage is dissolved by death, and, consequently, that the widower is at liberty to marry his first wife’s sister as being altogether a stranger. “Mr. Hatchard,” says Dr. Pusey (Preface, p. lxxxiii.), “probably did not observe that his argument applies equally to the wife’s mother or daughter.”

laws," forbid a man to marry either his wife's sister or his wife's niece. Each of these would be evil, but each might be exceeded in evil. There would be no further limit, as far as principle is concerned, in regard to any other case of *affinity*; and as to *consanguinity*, there is little ground of hope that, thenceforth, men would regard it as a limit beyond which their eye ought not to wander. The law of God, which was the safest foundation for the restriction in cases of *affinity* having been abandoned, the only safe foundation for the restriction in cases of *consanguinity* is undermined. And the example of others will seduce many. It is not the least painful part of the examination conducted by the Commissioners, that reference so frequent is made, both in the questions and in the answers, to the opinions of men, and reference so scanty to the will of God, as determining the fitness or unfitness of the marriages which formed the subject of the inquiry. Thus, (Evidence, p. 13) we find the Commissioners asking—"Are persons who have contracted such marriages looked down upon by their friends and associates?" and we find in the answers—"Quite the contrary—held in the highest regard—full knowledge and approval of all her relations—speak of them with the greatest regard." Almost all the parties, indeed, to whose marriages the witnesses refer, are what they call "respectable." One of them gravely adopts the celebrated reply of a witness in the famous Thurtell case of murder—who had described one of the parties as a respectable man:—"Witness," said the Court, "what do you mean by respectable?" "I mean, my Lord, that he keeps a gig." So Mr. Thornburn describes the hero of one of his cases:—"a man who keeps his carriage. . . . He is much respected; and though he is living in open concubinage, his neighbors sympathize with him."

We dread the contagion of this morbid sympathy—we dread the *defendit vnerus*. "The respectable man" who keeps his carriage will infect the man who keeps his gig; the two will corrupt the shopkeeper and the farmer, and the practice of these will descend to the lowest; so long as all, by upholding each other, can prevent the occurrence—which in Scotland and

in Ireland still is happily found—of a public disapprobation, equal in force to law, even if law had been wanting, against the the unsanctified alliance.

But “the plague is begun,” and the evil is already gone forth. Legislation, indeed, will make it worse, since the nation as a nation will then be committed to the sin. But even the popular discussion of the subject, however inevitable, on the right side, when the agitation has been urged on by our opponents, is itself an almost incalculable mischief. Thoughts, which never would have occurred to the pure, have been forced on the purest—a relationship which had given a mother to orphans, while it still gave a sister to the widower—is hazarded, if not broken up; and hundreds, who have looked on each other with the feelings of a blood-relationship, are even now compelled to think that the protection, which saved them from even a doubt or a thought in each other’s minds, will no longer save them from suspicion; and the children, the objects of their joint care, must be abandoned, since some loud and interested clamourers have declared that sisters of a wife deceased are to the widower no more than any other marriageable woman; and their own delicacy will then prompt them to withdraw from a position which no other marriageable woman could fill.

The Commissioners thought fit to address to the Lord Primate of all Ireland a communication requesting his Grace to ascertain the opinions of the clergy of Ireland on the subject of Marriages within the Prohibited Degrees. Why did not they address a similar communication to the Lord Primate of all England? Perhaps the reply which they received from the Archbishop of Armagh and the other prelates of Ireland did not encourage them to prosecute their inquiries. The words of the first noble and venerable man are as follows:—“My opinion is decidedly opposed to a removal of the prohibition which prevents a man from marrying his wife’s sister. There are, I believe, but very few cases of such marriages among persons of the higher ranks of society in this country; and among the lower orders, I understand, marriages of this kind are regarded with great dislike.”

The Bishop of Meath, speaking of public opinion in Ireland on this subject, says. p. 156—"Such marriages have been held in much greater abhorrence than in England. I know of only three or four in my long life; and the couples so united were cut off from all society, and even from the acquaintance of their nearest relations." If the Commissioners had desired to have the opinions of the clergy of England, their course was clear—namely, to submit to the Archbishops of Canterbury and of York a request that their Graces would in their respective provinces obtain through the several dioceses the returns of the archdeaconries or rural deaneries, respectively, on the two questions of opinion and of fact. The *opinions* so collected would, we think, have shown a vast preponderance against altering the existing law. The *facts*, we also think, would have shown that the existing law is violated far less frequently than has been assumed.

We have ourselves taken town parishes and country parishes: in four agricultural parishes there has been no remembered instance of a widower marrying his late wife's sister; in another, only one in seventeen years. The Rev J. E. Tyler, having "made careful inquiries in his parish of St. Giles," says—"I have not known one in my parish since I became rector in 1826." (Ans. 1212, p. 108.) Another London clergyman, from whom we have seen a return, maintains that the feelings of the poor, and the habits of the poor, and the silence of the poor in respect to any grievance arising from the present law, all concur in proving that, speaking generally, they seek no change.

That it is not a poor man's question is clear from the fact (App. p. 140), that of the 1648 marriages enumerated by Mr. Crowder, 40 only are in the class of laborers and mechanics.—Of the twelve thousand widowers who marry spinsters, how many have infant children requiring care—and is that care never to be found in the widower's own mother, or in the widower's own sisters?—is he never to obtain help from his own aunt, or from his wife's aunt?—and must he see his children orphanless, unless he can prevail on their mother's own sister to

violate alike the law of the Bible and the law of the land, and become their stepmother, and the only wife whom he can find ?

But without referring to marriages, the bare existence of any female relation on the husband's side as the protectress of his children seems never to have occurred as a possibility even to the wild imagination of the witnesses before the Commission ; nor is it ever stated by any one of them that his own sisters had ever been or could ever be as mothers to his children.

Relations more sacred than those of brother and sister are, however, now at stake. Admitting that the alliance is not forbidden in very terms and syllables, she says, for herself and her sex :—"Where the command is not in express words, we bind ourselves by its spirit ; and on our humble and faithful obedience to its dictates we rest our hopes of future recompense, or ground our fears of future retribution and punishment" (p. 4) ; and she closes her appeal by earnestly imploring the House of Commons, as husbands, brothers, and fathers, "to remove no safeguard to our virtue and our peace. If female purity and innocence, domestic harmony and joy, be dear to you—we entreat your consideration and aid ; and beseech you, in the eyes of your God and of your country, not, for the sake of the few whose motives cannot bear scrutiny, to sacrifice the well-being—the happiness of the whole."

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